

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KIM MONTGOMERY,)	
Plaintiff,)	
)	2:16cv248
vs)	Electronic Filing
)	
CITY OF PITTSBURGH,)	
Defendant.)	

MEMORANDUM ORDER

AND NOW, this 2nd day of March, 2018, upon due consideration of 1) defendant City of Pittsburgh's motion for summary judgment and the parties' submissions in conjunction therewith and 2) the Report and Recommendation of the Magistrate Judge addressing the same and the parties' submissions in conjunction therewith, and after *de novo* review of the record, IT IS ORDERED that [27] defendant's motion for summary judgment be, and the same hereby is, granted. The [48] Report and Recommendation of the Magistrate Judge as augmented therein is adopted as the opinion of the court.

Plaintiff's objections are without merit. Plaintiff's obligation at the pleading stage is to set forth factual averments that advance a plausible showing pursuant to a cognizable legal theory of entitlement to redress. Plaintiff's obligation at summary judgment is to identify sufficient evidence to permit a jury to find all of the elements in plaintiff's favor under a cognizable legal theory of entitlement to redress. Plaintiff is not a liberty to pick and choose tenants and doctrines from various separate and distinct theories of recovery developed under a broad remedial statutory scheme and then cobble them together in an incoherent fashion. Any attempt to do so, such as that which plaintiff has attempted here, falls short of meeting the showing needed to defeat a movant's adequate initial showing under Rule 56. Consequently, defendant's motion for summary judgment has been granted; and

IT FURTHER IS ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure if plaintiff desires to appeal from this Order she must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: The Honorable Robert C. Mitchell,
United States Magistrate Judge

Joel S. Sansone, Esquire
Elizabeth Tuttle, Esquire
Massimo A. Terzigni, Esquire
Lourdes Sanchez Ridge, Esquire
Matthew S. McHale, Esquire

(Via CM/ECF Electronic Mail)